

Notice of Allowability

Application No.

10/661,082

Examiner

Arnel C. Lavarias

Applicant(s)

MOON ET AL.

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 3/27/06.
2. The allowed claim(s) is/are 24-84,86-87 (renumbered 1-63).
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 1) hereto or 2) to Paper No./Mail Date _____.
(b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
 Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
 of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
 Paper No./Mail Date _____
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____

DETAILED ACTION

Response to Amendment

1. The cancellation of Claim 85 in the submission dated 3/27/06 is acknowledged and accepted. In view of this cancellation, the objections to the claims in Section 10 of the Office Action dated 12/27/05 are respectfully withdrawn.

Response to Arguments

2. The claims of the instant application are currently only provisionally rejected under obviousness-type double patenting to corresponding claims in Application Nos. 10/661234, 10/661031, and 10/763995. Currently, none of these applications have been indicated as allowed and passed to issue. As per MPEP 804(I)(B)(1), since the only remaining rejections in the instant case are provisional obviousness-type double patenting rejections, these provisional obviousness-type double patenting rejections are withdrawn so as to permit the instant application to issue without the need for a terminal disclaimer. Therefore, the rejections in Sections 12-14 of the Office Action dated 12/27/05 are respectfully withdrawn.

Allowable Subject Matter

3. Claims 24-84, 86-87 are allowed.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance:

Claim 24 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest an optical identification element for identifying an item, an item having an optical identification element disposed therein, a method of reading a code associated with an optical identification element disposed on an item, and a method for labeling an item, as generally set forth in Claims 24, 65, 71, and 77, the element, item, and methods including, in combination with the features recited in Claims 24, 65, 71, and 77, a substrate being made of a substantially single material and having at least one diffraction grating embedded therein, the grating having a resultant refractive variation within the substantially single material, the grating providing an output signal indicative of a code identifying the item when illuminated by an incident light signal propagating from outside the substrate. Claims 25-64, 66-70, 72-76, 78-84, 86-87 are dependent on Claims 24, 65, 71, and 77, and hence are allowable for at least the same reasons Claims 24, 65, 71, and 77 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2872

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavaras whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Arnel C. Lavaras
Patent Examiner
Group Art Unit 2872
5/25/06